

Calendar No. 519

105TH CONGRESS
2^D SESSION**S. 361****[Report No. 105–282]**

To amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 1997

Mr. JEFFORDS (for himself, Mr. MOYNIHAN, Mr. LEAHY, Mr. LEVIN, Mr. D'AMATO, Mr. TORRICELLI, Mr. LUGAR, Mr. ABRAHAM, Mr. SMITH of New Hampshire, and Mr. CLELAND) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 31, 1998

Reported by Mr. CHAFEE, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rhino and Tiger Prod-
3 uct Labeling Act”.

4 **SEC. 2. PROHIBITION ON SALE, IMPORT, AND EXPORT OF**
5 **PRODUCTS LABELED AS CONTAINING ENDAN-**
6 **GERED SPECIES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the populations of several magnificent and
9 unique endangered species, such as the Indian rhi-
10 noceros, the Javan rhinoceros, the African black rhi-
11 noceros, and all of the tiger subspecies, are declin-
12 ing;

13 (2) growing demand throughout the world for
14 wildlife and wildlife parts and products has created
15 a market in which commercial exploitation has
16 threatened certain wildlife populations;

17 (3) there are insufficient legal mechanisms ena-
18 bling the United States Fish and Wildlife Service to
19 forcefully interdict products that are labeled as con-
20 taining endangered species and prosecute the mer-
21 chandisers for sale or display of the products; and

22 (4)(A) although approximately 77,000 import
23 and export shipments occur annually in the United
24 States, the United States Fish and Wildlife Service
25 is able to maintain only 92 wildlife inspectors at 30

1 ports of entry, including 13 designated ports, to
 2 monitor the shipments; and

3 ~~(B)~~ wildlife inspectors are able to physically in-
 4 spect an estimated 5 to 10 percent of all shipments;
 5 making the detection rate of contraband wildlife
 6 products extremely low.

7 ~~(b)~~ PROHIBITION.—Section 9(a) of the Endangered
 8 Species Act of 1973 (16 U.S.C. 1538(a)) is amended—

9 ~~(1)~~ in paragraph (1)—

10 ~~(A)~~ in subparagraph (A)—

11 (i) by striking “(A)” and inserting
 12 “(A)(i)”;

13 (ii) by adding “or” at the end; and

14 (iii) by adding at the end the follow-
 15 ing:

16 “(ii) import any product labeled as containing
 17 any such species or any species of fish or wildlife
 18 listed in Appendix I to the Convention into, or ex-
 19 port any such product from, the United States;”
 20 and

21 ~~(B)~~ in subparagraph (F), by inserting be-
 22 fore the semicolon the following: “or any prod-
 23 uct labeled as containing any such species”; and

24 ~~(2)~~ in paragraph (2)—

25 ~~(A)~~ in subparagraph (A)—

1 (i) by striking “(A)” and inserting
 2 “(A)(i)”;

3 (ii) by adding “or” at the end; and

4 (iii) by adding at the end the follow-
 5 ing:

6 “(ii) import any product labeled as containing
 7 any such species or any species of plant listed in Ap-
 8 pendix I to the Convention into; or export any such
 9 product from; the United States;” and

10 (B) in subparagraph (D), by inserting be-
 11 fore the semicolon the following: “or any prod-
 12 uct labeled as containing any such species”.

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “Rhinoceros and Tiger*
 15 *Conservation Act of 1998”.*

16 **SEC. 2. FINDINGS.**

17 *Congress finds that—*

18 *(1) the populations of all but 1 species of rhinoc-*
 19 *eros, and the tiger, have significantly declined in re-*
 20 *cent years and continue to decline;*

21 *(2) these species of rhinoceros and tiger are listed*
 22 *as endangered species under the Endangered Species*
 23 *Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Ap-*
 24 *pendix I of the Convention on International Trade in*
 25 *Endangered Species of Wild Fauna and Flora, signed*

1 on March 3, 1973 (27 UST 1087; TIAS 8249) (re-
2 ferred to in this Act as “CITES”);

3 (3) the Parties to CITES have adopted several
4 resolutions—

5 (A) relating to the conservation of tigers
6 (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14),
7 urging Parties to CITES to implement legisla-
8 tion to reduce illegal trade in parts and products
9 of the species; and

10 (B) relating to trade in readily recognizable
11 parts and products of the species (Conf. 9.6), and
12 trade in traditional medicines (Conf. 10.19), rec-
13 ommending that Parties ensure that their legis-
14 lation controls trade in those parts and deriva-
15 tives, and in medicines purporting to contain
16 them;

17 (4) a primary cause of the decline in the popu-
18 lations of tiger and most rhinoceros species is the
19 poaching of the species for use of their parts and
20 products in traditional medicines;

21 (5) there are insufficient legal mechanisms ena-
22 bling the United States Fish and Wildlife Service to
23 interdict products that are labeled as containing sub-
24 stances derived from rhinoceros or tiger species and

1 *prosecute the merchandisers for sale or display of*
 2 *those products; and*

3 *(6) legislation is required to ensure that—*

4 *(A) products containing rhinoceros parts or*
 5 *tiger parts are prohibited from importation into,*
 6 *or exportation from, the United States; and*

7 *(B) efforts are made to educate persons re-*
 8 *garding alternatives for traditional medicine*
 9 *products, the illegality of products containing*
 10 *rhinoceros parts and tiger parts, and the need to*
 11 *conserve rhinoceros and tiger species generally.*

12 **SEC. 3. PURPOSES OF THE RHINOCEROS AND TIGER CON-**
 13 **SERVATION ACT OF 1994.**

14 *Section 3 of the Rhinoceros and Tiger Conservation*
 15 *Act of 1994 (16 U.S.C. 5302) is amended by adding at the*
 16 *end the following:*

17 *“(3) To prohibit the sale, importation, and ex-*
 18 *portation of products intended for human consump-*
 19 *tion or application containing, or labeled or adver-*
 20 *tised as containing, any substance derived from any*
 21 *species of rhinoceros or tiger.”.*

22 **SEC. 4. DEFINITION OF PERSON.**

23 *Section 4 of the Rhinoceros and Tiger Conservation*
 24 *Act of 1994 (16 U.S.C. 5303) is amended—*

1 (1) *in paragraph (4), by striking “and” at the*
 2 *end;*

3 (2) *in paragraph (5), by striking the period at*
 4 *the end and inserting “; and”; and*

5 (3) *by adding at the end the following:*

6 “(6) ‘person’ means—

7 “(A) *an individual, corporation, partner-*
 8 *ship, trust, association, or other private entity;*

9 “(B) *an officer, employee, agent, depart-*
 10 *ment, or instrumentality of—*

11 “(i) *the Federal Government;*

12 “(ii) *any State, municipality, or polit-*
 13 *ical subdivision of a State; or*

14 “(iii) *any foreign government;*

15 “(C) *a State, municipality, or political sub-*
 16 *division of a State; or*

17 “(D) *any other entity subject to the juris-*
 18 *diction of the United States.”.*

19 **SEC. 5. PROHIBITION ON SALE, IMPORTATION, OR EXPOR-**
 20 **TATION OF PRODUCTS LABELED AS RHINOC-**
 21 **EROS OR TIGER PRODUCTS.**

22 *The Rhinoceros and Tiger Conservation Act of 1994*
 23 *(16 U.S.C. 5301 et seq.) is amended—*

24 (1) *by redesignating section 7 as section 9; and*

25 (2) *by inserting after section 6 the following:*

1 **“SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPOR-**
 2 **TATION OF PRODUCTS LABELED AS RHINOC-**
 3 **EROS OR TIGER PRODUCTS.**

4 “(a) *PROHIBITION.*—A person shall not sell, import,
 5 or export, or attempt to sell, import, or export, any product,
 6 item, or substance intended for human consumption or ap-
 7 plication containing, or labeled or advertised as containing,
 8 any substance derived from any species of rhinoceros or
 9 tiger.

10 “(b) *PENALTIES.*—

11 “(1) *CRIMINAL PENALTY.*—A person engaged in
 12 business as an importer, exporter, or distributor that
 13 knowingly violates subsection (a) shall be fined under
 14 title 18, United States Code, imprisoned not more
 15 than 6 months, or both.

16 “(2) *CIVIL PENALTIES.*—

17 “(A) *IN GENERAL.*—A person that know-
 18 ingly violates subsection (a), and a person en-
 19 gaged in business as an importer, exporter, or
 20 distributor that violates subsection (a), may be
 21 assessed a civil penalty by the Secretary of not
 22 more than \$12,000 for each violation.

23 “(B) *MANNER OF ASSESSMENT AND COL-*
 24 *LECTION.*—A civil penalty under this paragraph
 25 shall be assessed, and may be collected, in the
 26 manner in which a civil penalty under the En-

1 *dangered Species Act of 1973 may be assessed*
 2 *and collected under section 11(a) of that Act (16*
 3 *U.S.C. 1540(a)).*

4 “(c) *PRODUCTS, ITEMS, AND SUBSTANCES.—Any*
 5 *product, item, or substance sold, imported, or exported, or*
 6 *attempted to be sold, imported, or exported, in violation of*
 7 *this section or any regulation issued under this section shall*
 8 *be subject to seizure and forfeiture to the United States.*

9 “(d) *REGULATIONS.—After consultation with the Sec-*
 10 *retary of the Treasury, the Secretary of Health and Human*
 11 *Services, and the United States Trade Representative, the*
 12 *Secretary shall issue such regulations as are appropriate*
 13 *to carry out this section.*

14 “(e) *ENFORCEMENT.—The Secretary, the Secretary of*
 15 *the Treasury, and the Secretary of the department in which*
 16 *the Coast Guard is operating shall enforce this section in*
 17 *the manner in which the Secretaries carry out enforcement*
 18 *activities under section 11(e) of the Endangered Species Act*
 19 *of 1973 (16 U.S.C. 1540(e)).*

20 “(f) *USE OF PENALTY AMOUNTS.—Amounts received*
 21 *as penalties, fines, or forfeiture of property under this sec-*
 22 *tion shall be used in accordance with section 6(d) of the*
 23 *Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).”.*

1 **SEC. 6. EDUCATIONAL OUTREACH PROGRAM.**

2 *The Rhinoceros and Tiger Conservation Act of 1994*
 3 *(16 U.S.C. 5301 et seq.) (as amended by section 5) is*
 4 *amended by inserting after section 7 the following:*

5 **“SEC. 8. EDUCATIONAL OUTREACH PROGRAM.**

6 “(a) *IN GENERAL.*—Not later than 180 days after the
 7 date of enactment of this section, the Secretary shall develop
 8 and implement an educational outreach program in the
 9 United States for the conservation of rhinoceros and tiger
 10 species.

11 “(b) *GUIDELINES.*—The Secretary shall publish in the
 12 Federal Register guidelines for the program.

13 “(c) *CONTENTS.*—Under the program, the Secretary
 14 shall publish and disseminate information regarding—

15 “(1) laws protecting rhinoceros and tiger species,
 16 in particular laws prohibiting trade in products con-
 17 taining, or labeled as containing, their parts;

18 “(2) use of traditional medicines that contain
 19 parts or products of rhinoceros and tiger species,
 20 health risks associated with their use, and available
 21 alternatives to the medicines; and

22 “(3) the status of rhinoceros and tiger species
 23 and the reasons for protecting the species.”.

24 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

25 *Section 9 of the Rhinoceros and Tiger Conservation*
 26 *Act of 1994 (16 U.S.C. 5306) (as redesignated by section*

- 1 5(1)) *is amended by striking “1996, 1997, 1998, 1999, and*
2 *2000” and inserting “1996 through 2002”.*

Amend the title so as to read: “A bill to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger, and to reauthorize the Rhinoceros and Tiger Conservation Act of 1994, and for other purposes.”.

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